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# GENERAL STATUTES

OF THE

# STATE OF MINNESOTA.

PREPARED BY THE COMMISSIONERS APPOINTED TO REVISE  
THE STATUTES OF THE STATE, BY ACT OF THE  
LEGISLATURE, PASSED FEBRUARY 17, 1863.

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# MINNESOTA STATUTES 1863

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5 or by private persons, are governed by the same rules as  
6 other civil actions, except as herein otherwise prescribed.

c69

C. S. p. 616, Sect. 9.

1 SECT. 7. When an action is brought for a penalty, which  
2 is limited by law, not to exceed a certain amount, the action  
3 may be brought for that amount, and upon trial, the amount  
4 recovered shall be determined in proportion to the offense.

C. S. p. 616, Sect. 10.  
.1.

1 SECT. 8. A recovery of a judgment, for a penalty or  
2 forfeiture, by collusion between the parties, with intent to  
3 save the defendant from the consequences contemplated by  
4 law, in case where the penalty or forfeiture is given wholly  
5 or partly to the prosecutor, does not prevent the recovery of  
6 the same by another person.

C. S. p. 616, Sect. 11.

1 SECT. 9. Fines and forfeitures, not specially granted or  
2 appropriated by law, shall be paid into the treasury of the  
3 state; and whenever, any property, real or personal, is  
4 forfeited to the state, or to any officer, for its use, an action for  
5 the recovery of such property, alleging the grounds of the  
6 forfeiture, may be brought by the proper officer, in the dis-  
7 trict court of any county where such property may be.

c98

C. S. p. 733, Sect. 12.  
Amended.

1 SECT. 10. All fines and forfeitures imposed as a punish-  
2 ment for any offense, or for the violation or neglect of any  
3 duty imposed by statute, may be prosecuted for and recovered  
4 by indictment in the district court; or when the amount or  
5 value thereof does not exceed one hundred dollars, the same  
6 may be prosecuted for by complaint before a justice of the  
7 peace, who shall have jurisdiction thereof concurrently with  
8 the district court, and in all cases of the imposition of a fine  
9 pursuant to statute, as punishment for any offense, the of-  
10 fender may be committed till the same is paid, or he is oth-  
11 erwise discharged according to law.

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## CHAPTER LXXIX.

### ACTIONS TO VACATE CHARTERS AND LETTERS PAT- ENT, AND TO PREVENT THE USURPATION OF AN OFFICE OR FRANCHISE.

c70

C. S. p. 618, Sect. 2.

1 SECTION 1. An action may be brought by the attorney  
2 general in the name of the state, whenever the legislature  
3 so directs, against a corporation, for the purpose of vaca-  
4 ting or annulling the act of incorporation, or an act renew-  
5 ing its corporate existence, on the ground that such act or

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6 renewal was procured upon some fraudulent suggestion, or  
7 concealment of a material fact by the persons incorporated,  
8 or some of them, or with their knowledge and consent.

1 SECT. 2. An action may be brought by the attorney gen-  
2 eral in the name of the state, for the purpose of vacating the  
3 charter, or annulling the existence of a corporation other  
4 than municipal, whenever such corporation : C. S. p. 618, Sect. 3.  
Amended. c70

5 *First.*—Offends against any of the provisions of the act,  
6 or acts creating, altering, or renewing such corporation ; or,

7 *Second.*—Violates the provisions of any laws, by which  
8 such corporation forfeits its charter, by abuse of its powers ;  
9 or,

10 *Third.*—Whenever it has forfeited its privileges, or fran-  
11 chises, by failure to exercise its powers ; or,

12 *Fourth.*—Whenever it has done, or omitted any act,  
13 which amounts to a surrender of its corporate rights, privi-  
14 leges, and franchises ; or,

15 *Fifth.*—Whenever it exercises a franchise or privilege  
16 not conferred upon it by law.

17 And the attorney general shall bring the action in every  
18 case of public interest, whenever he has reason to believe  
19 that any of these acts or omissions can be proved ; and also  
20 in every other case in which satisfactory security is given  
21 to indemnify the state against the costs and expenses to be  
22 incurred thereby.

1 SECT. 3. An action may be brought by the attorney  
2 general in the name of the state, upon his own information,  
3 or upon the complaint of a private party, against the party C. S. p. 618, Sect. 5.  
4 offending in the following cases :

5 *First.*—When any person usurps, intrudes into, or un-  
6 lawfully holds or exercises any public office, or any fran-  
7 chise within this state, or any office in a corporation created  
8 by the authority of this state ; or,

9 *Second.*—When any public officer has done, or suffered  
10 an act, which by the provisions of this law causes a forfeiture  
11 of his office ; or,

12 *Third.*—When any association or number of persons act  
14 within this state as a corporation without being duly incor-  
14 porated. And the attorney general shall bring the action  
15 whenever he has reason to believe that any of these acts can  
16 be proved.

1 SECT. 4. An action may be brought by the attorney  
2 general in the name of the state for the purpose of vacating C. S. p. 618, Sect. 6.  
3 or annulling letters patent, granted by the state, in the fol-  
4 lowing cases :

5 *First.*—When he has reason to believe that such letters  
6 patent were obtained by means of some fraudulent sugges-

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7 tion or concealment of a material fact, made by the person  
8 to whom the same were issued or made, or with his consent or  
9 knowledge; or,

10 *Second.*—When he has reason to believe that such letters  
11 patent were issued through mistake, or in ignorance of a  
12 material fact;

13 *Third.*—When he has reason to believe that the paten-  
14 tee, or those claiming under him, have done or omitted an  
15 act in violation of the terms and conditions on which the  
16 letters patent were granted, or have by any other means  
17 forfeited the interest acquired under the same.

c 70

C. S. p. 619, Sect. 7.

1 SECT. 5. When an action is brought by the attorney  
2 general by virtue of this chapter, on the complaint or in-  
3 formation of any person having an interest in the question,  
4 the name of such person shall be joined with the state as  
5 plaintiff.

C. S. p. 619, Sects. 8  
& 9, combined &  
amended.

1 SECT. 6. Whenever such action is brought against a  
2 person for usurping an office, the attorney general, in addi-  
3 tion to the statement of the cause of action, may also set  
4 forth in the complaint the name of the person rightfully en-  
5 titled to the office, with a statement of his right thereto, and  
6 in every such case, judgment may be rendered upon the  
7 right of the defendant, and also upon the right of the party  
8 so alleged to be entitled, or only upon the right of the de-  
9 fendant, as justice requires.

C. S. p. 619, Sects. 10  
& 12, combined &  
amended.

1 SECT. 7. If judgment is rendered in favor of the person  
2 so alleged to be entitled, he shall be entitled, after taking  
3 the oath of office, and executing such official bond as may  
4 be required by law, to take upon himself the execution of  
5 the office, and may be put in possession thereof, and of the  
6 books and papers belonging thereto by order of the court,  
7 and any party refusing to deliver the same when ordered by  
8 the court, shall be punished as for a contempt; and he may  
9 also recover, by action, the damages which he sustains by  
10 reason of the usurpation of the office by the defendant.

C. S. p. 619, Sect. 13.

1 SECT. 8. Where several persons claim to be entitled to  
2 the same office or franchise, one action may be brought  
3 against all such persons, in order to try their respective  
4 rights to such office or franchise.

C. S. p. 619, Sect. 14.  
Amended.

1 SECT. 9. When a person or a corporation, is adjudged  
2 guilty of usurping or intruding into, or unlawfully holding or  
3 exercising any office, franchise, or privilege, judgment shall  
4 be rendered, that such person or corporation be excluded  
5 from the office, franchise, or privilege. The court may also  
6 in its discretion, impose upon the defendant a fine not ex-  
7 ceeding one thousand dollars.

1 SECT. 10. If it is adjudged that a corporation has by  
 2 neglect, abuse, or surrender, forfeited its corporate rights, C. S. p. 620, Sect. 15. c 70  
 3 privileges, and franchises, judgment shall be rendered that  
 4 the corporation be excluded from such corporate rights,  
 5 privileges, and franchises, and that the corporation be dis-  
 6 solved.

1 SECT. 11. If judgment is rendered in such action,  
 2 against a corporation, or against persons claiming to be a C. S. p. 620, Sect. 16.  
 3 corporation, the court may cause the costs therein to be col-  
 4 lected by execution against the persons claiming to be a cor-  
 5 poration, or by process against the directors or other officers  
 6 of such corporation.

1 SECT. 12. When such judgment is rendered against a  
 2 corporation, the court has power to restrain the corporation,  
 3 to appoint a receiver of its property, and take an account C. S. p. 620, Sect. 17.  
 4 and make distribution thereof among its creditors, and the Amended.  
 5 attorney general, immediately after the rendition of such  
 6 judgment shall institute proceedings for that purpose.

1 SECT. 13. Upon the rendition of such judgment against C. S. p. 620, Sect. 18.  
 2 a corporation, or for the vacating or annulling of letters pat-  
 3 ent, the attorney general shall cause a copy of the judgment-  
 4 roll to be forthwith filed in the office of the secretary of  
 5 state.

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## CHAPTER LXXX.

### SPECIAL PROCEEDINGS.

#### TITLE I.

##### WRIT OF MANDAMUS.

1 SECTION 1. The writ of mandamus is regulated as in C. S. p. 632, Sect. 3. c 73  
 2 this chapter prescribed.

1 SECT. 2. It may be issued to any inferior tribunal, cor-  
 2 poration, board, or person, to compel the performance of C. S. p. 632, Sect. 4.  
 3 an act which the law specially enjoins as a duty resulting  
 4 from an office, trust or station; but though it may require  
 5 an inferior tribunal to exercise its judgment, or proceed to  
 6 the discharge of any of its functions, it cannot control judi-  
 7 cial discretion.